

REMARKS/ARGUMENTS

The Examiner states that the invention of Groups II and I are related as process of making and product made and the product of Group I could be made by processes different of Group II, for example, instead of forming a first buried insulation film in said region and then forming a second buried insulation film immediately beneath said first buried insulation film in contact therewith, a process of forming first a second buried insulation film in said region and then forming a first buried insulation film immediately above said second buried insulation film in contact therewith could be carried out.

However, it can be seen that the process, as outlined by the Examiner, is not capable of being carried out to form the device of Group I, since the process of Group II, as outlined in Figures 7-10 and discussed in the specification on pages 21-28, clearly shows the impossibility of depositing a second buried insulation film 3-2 first in the element shown in Figures 7-10 and then forming the first buried insulation film 3-1 immediately above the second buried insulation film and in contact therewith. Therefore, it is submitted that the Examiner has not met the requirements of M.P.E.P. §806.05(f) of setting forth a materially different process for producing the product of Group I and it is requested that the Examiner rejoin the claims and examine all claims in the present application.

Further, if the claims of Group I are ultimately found allowable, it is requested that the claims of Group II be rejoined under M.P.E.P. §821.04 and allowed in the present application, also.

Finally, Applicants traverse the restriction requirement on the grounds that the Patent and Trademark Office has not shown that a burden exists in searching all of the

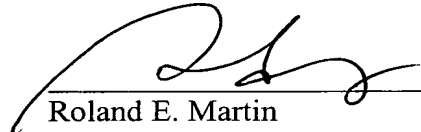
Application No. 10/612,985
Reply to Restriction Requirement of June 8, 2004

claims. Applicants respectfully point out that thousands of U.S. patents have issued in which many more than two subclasses have been searched, and the Patent and Trademark Office cannot reasonably exert that a burden exists in searching only two subclasses.

Accordingly, for the reasons presented above, Applicants submit that the Patent and Trademark Office has failed to meet the requirements necessary to sustain the restriction requirement. Withdrawal of the restriction requirement is respectfully requested.

Respectfully submitted,

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